

REMARKS

The Final Office Action of July 27, 2005, has been received and reviewed. Claims 1-22 are currently pending in the application. Claims 1, 2, and 18-22 stand rejected. Claims 19 and 20 were only rejected as being dependent on a rejected base claim. In order to expedite prosecution, the elements of claims 19 and 20 as well as any intervening dependent claims have been placed into the independent claims. Claims 1, 2, 11, 12, and 18-22 have been amended herein. Claims 3-17 were previously withdrawn, but rejoinder of claims 11-14 is respectfully requested. Claims 11-14 are presented herein in an amended format so as to recite all elements of an allowable independent product claim. Claims 2-10 and 15-17 have been cancelled herein. All amendments and cancellations are made without prejudice or disclaimer. Reconsideration is respectfully requested.

Entry of Amendments

Pursuant to 37 C.F.R. § 1.116, applicant respectfully submits that the amendments presented herein should be entered as the amendments are made to expedite prosecution and are believed to remove issues for appeal and place the application in condition for allowance.

Applicant respectfully notes that, as indicated at MPEP § 714.13(III), the Examiner is required to give the proposed amendment sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified. Applicant respectfully submits that the amendments avoid the rejections set forth in the Final Office Action, raise no issues of new matter, present no issues requiring further consideration or search, and do not present any additional claims. If the Examiner determines that the amendments do not place the application in condition for allowance, entry is respectfully requested as they remove issues for appeal. As such, the applicant respectfully requests that the amendments presented herein be entered and a Notice of Allowance issued.

Applicant respectfully reminds the Examiner that, as indicated at MPEP § 714.13(III), the Examiner is expected to turn in a response to an Amendment After Final Rejection within 10 calendar days from the time the amendment is received by the Examiner. Further, a reply to an Amendment After Final Rejection should be mailed within 30 days of the date the amendment is received by the Office. *Id.*

Rejoinder

Applicant respectfully requests rejoinder of claims 11-14. If an applicant elects claims directed to a product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all elements of the allowable product claim will be rejoined. MPEP § 821.04; *see also In re Ochiai*, 71 F.3d 1565, 37 USPQ2d 1127 (Fed. Cir. 1995); *In re Brouwer*, 77 F.3d 422, 37 USPQ2d 1663 (Fed. Cir. 1996). Applicant respectfully submits that claims directed to a product (*e.g.*, claims 1, 2, and 21) were previously elected by the applicant. Applicant currently believes the product claims to be in condition for allowance as they claim subject matter undisputed to be allowable in a preceding Office Action. As such applicant respectfully requests rejoinder of process claims 11-14 which have been amended to include all elements of an allowable product claim.

Rejections under 35 U.S.C. § 112, 1st Paragraph

Claims 1, 18, 21, and 22 stand rejected under 35 U.S.C. § 112, first paragraph, as assertedly failing to comply with the written description requirement. Applicant respectfully submits that the claim amendments overcome the rejections and requests withdrawal of the same.

Although the applicant does not agree that the application does not comply with the written description requirement, to expedite prosecution, claims 1, 18, 21, and 22 have been amended herein. Amended claims 1, 18, 21, and 22 now recite “wherein the isolated polypeptide comprises an amino acid sequence of SEQ ID NO: 1.” Basis for the amendments is found in claim 2, which was not subject to rejection under 35 U.S.C. § 112, first paragraph. Thus, no new issues are being raised. Consequently, applicant respectfully submits that the rejections to claims 1, 18, 21, and 22 under 35 U.S.C. § 112, first paragraph, have been overcome.

Reconsideration and withdrawal of the rejections of claims 1, 18, 21, and 22 for lack of written description are respectfully requested.

Rejection under 35 U.S.C. § 103(a)

Claims 1, 2, 18, 21, and 22 stand rejected under 35 U.S.C. § 103(a) as assertedly being

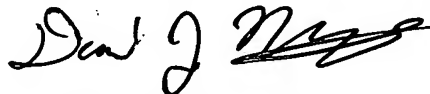
obvious in light of Ranganathan et al. ("Ranganathan") in view of Pestka et al. ("Pestka"). Applicant respectfully submits that the claim amendments overcome the rejections.

To expedite prosecution, the independent claims are to be amended to include the elements of claims 19 and 20, which were not subject to rejection under 35 U.S.C. § 103(a). Thus, no new issues are being raised. The Examiner indicated, at page 4 of the Office Action mailed July 27, 2005, that claims 19 and 20 would be allowable if rewritten in independent form including all of the elements of the base claim and any intervening claims. As such, applicant respectfully submits that amendments to claims 1, 2, and 21 overcome the rejections under 35 U.S.C. § 103(a). Applicant respectfully submits that claims 18 and 22 are allowable at least as depending from allowable independent claims 1 and 21 respectively, and reconsideration and withdrawal of the rejection of claims 1, 2, 18, 21, and 22 under 35 U.S.C. § 103(a) are respectfully requested.

CONCLUSION

All pending claims are believed to be in condition for allowance, and notice thereof is respectfully solicited. Should the Office determine that additional issues remain which might be resolved by a telephone conference, the Examiner is respectfully invited to contact the applicant's undersigned attorney.

Respectfully submitted,



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